HONOURABLE SRI JUSTICE N.V.RAMANA

WRIT PETITION No. 27947 of 1996

DATED: 31-01-2007

Between:

The Adilabad District Cooperative
Central Bank Ltd., Adilabad, represented by its
General Manager.

…Petitioner

and

The Chairman, Industrial Tribunal-cum-
Labour Court, Godavarikhani,
Adilabad District and another

…Respondents.

THE HON'BLE SRI JUSTICE N.V.RAMANA

W.P.No. 27947 of 1997

Oral order:

The 2nd respondent while working as Secretary in the Agricultural Development Bank, Sirpur, vide orders dated 07.04.1980 was dismissed from service on certain proved charges. Assailing the said order, the 2nd respondent is said to have filed a writ petition in W.P. No. 1932 of 1983, and this Court by order dated 23.12.1983 dismissed the writ petition and upheld the order of dismissal. Ten years after dismissal of the writ petition, the petitioner states that the 2nd respondent suppressing the factum of dismissal of the writ petition, filed by him assailing the order of his dismissal from service, raised an industrial dispute in I.D. No. 112 of 1993 on the filed of the Labour Court, Godavarikhani, under Section 2(a)(2) of the Industrial Disputes Act, 1947. The Labour Court considering the fact that the 2nd respondent was acquitted in the criminal case by the Criminal Court, condoned the long delay of 13 years in filing the I.D., and passed an award dated 25.09.1996 allowing the I.D. and directing the petitioner to reinstate the 2nd respondent with continuity of service and attendant benefits, but without backwages. Assailing the said award, the petitioner filed the present writ petition.

Heard the learned Standing Counsel for the petitioner-Bank. None appear for the 2nd respondent-employee.

This Court while admitting the writ petition, by order dated 30.12.1996 granted interim stay of the award of the Labour Court, and

in view of the said interim order, the 2nd respondent is out of employment.

The 2nd respondent was dismissed from service as far back as on 07.04.1980. Assailing the said order, the 2nd respondent filed writ petition in W.P. No. 1932 of 1983, and the same was dismissed by this Court vide order dated 23.12.1983 *inter alia* holding that the admission of the 2nd respondent of the guilt was sufficient to sustain his punishment. Admittedly, the 2nd respondent did not file any appeal assailing the order in the writ petition, and as such, the order passed in the writ petition, upholding the order of dismissal of the 2nd respondent from service, attained finality.

Despite the order of his dismissal from service attaining finality, the 2nd respondent, suppressing the said fact, ten years after dismissal of the writ petition and after his acquittal by the criminal court in the criminal case, raised an industrial dispute, and the Labour Court by reason of the award dated 25.09.1993 impugned in this writ petition allowed the I.D. and directed the petitioner to reinstate the 2nd respondent with continuity of service and attendant benefits, but without backwages. Though the 2nd respondent suppressed the factum of the dismissal of the writ petition, filed by him assailing the order of his dismissal from service, the fact remains, even the petitioner did not bring this fact to the notice of the Labour Court. Had the petitioner brought the said fact to the notice of the Labour Court, the Labour Court would not have entertained the I.D.

Inasmuch as it is the case of the petitioner that despite their instructions, the counsel representing them before the Labour Court failed to bring to the notice of the Labour Court the factum of dismissal of the writ petition filed by the 2nd respondent earlier, I am of the considered opinion that for the lapse of the counsel, the petitioner cannot be penalized. In that view of the matter, the impugned award

passed by the Labour Court, directing the petitioner to reinstate the 2nd respondent with continuity of service and attendant benefit, but without backwages, cannot be sustained, and is liable to be set aside, and more so when the order of dismissal of the petitioner from service attained finality when the writ petition filed by him assailing the same, was dismissed by this Court and no further appeal was preferred thereagainst.

In the result, the writ petition is allowed and the award dated 25.09.1996, passed by the Labour Court, Godavarikhani, is set aside. No costs.

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N.V. RAMANA, J

31st January, 2007
GRR